

**Workers' Compensation Advisory Committee (WCAC)**  
Meeting Minutes  
August 27, 2003

**INTRODUCTIONS:**

**PRESENT:**

**COMMITTEE MEMBERS PRESENT:**

Business Representatives: Amber Balch, Association of Washington Business; Mike Sotelo, W.G. Clark Construction, Inc.; Dan Fazio, Washington State Farm Bureau for Jon Warling, Mar-Jon Orchards

Labor Representatives: Frank Prochaska, NW WA Area Rep, AWPPW for Robby Stern, Washington State Labor Council, AFL-CIO; Owen Linch, Joint Council of Teamsters; Dave Johnson, WSBCTC for Roger Boatwright, WA State Building & Construction Trades Council

Self-Insured Employer's Representative: Herb Sherburne, WSIA for Lori Carlson, Sellen Construction Company, Washington Self-Insurance Association

Self-Insured Worker's Representative: Ellie Menzies, Service Employees State Council

Ex Officio Member: Tom Egan, Board of Industrial Insurance Appeals (BIIA)

Chair: Bob Malooly, Chair

Recorder: Bev Gunther

**COMMITTEE MEMBERS NOT PRESENT:** Robby Stern, Washington State Labor Council, AFL-CIO; Jon Warling, Mar-Jon Orchards; Roger Boatwright, WA State Building & Construction Trades Council; Lori Carlson, Washington Self-Insurance Association

**PRESENTERS:** Tom Egan, Mark Mercier, Diana Drylie, Paul Trause, Kathy Kimbel, Dave Overby

**GUESTS:** Sue Holm, WDTL; Lauren Gubbe, AGC; Sharon Morris, U of W; Sara Crumb, WSTLA; Nancy Dicus, TOC; Jim McClain, Canyon Creek Cabinets; Tammie Hetrick, WRA; Mitch Seaman, WSBCTC; Mike McKinney, WSIWC; Jeannie Gorrell, Senate Staff; Jill Reinmuth, House C&L Committee; Mark Johnson, NFIB; Jan Gee, G&G Public Affairs

**L&I STAFF:** Jody Moran, George Pickett, Ernie LaPalm, Peter Lichtblau, RT Nelson, Tom Hess, Suzanne Mager

**Introductions**

**Review/Approval of June 4, 2003 Meeting Minutes – Minutes were approved as presented.**

**Board of Industrial Insurance Appeals (BIIA) – Tom Egan**

Tom announced the third Board member has been appointed. Calhoun (Cal) Dickenson has been appointed as the new business member.

Tom provided the following updates on the BIIA statistics:

- Appeals filed and granted by month remains constant at approximately 1100 to 1150. This statistic includes all appeals, however, the bulk of the appeals are workers' compensation related.
- Total industrial insurance appeals filed, except for the spike in June 2001, has remained steady over the last two years.
- Department reassumption rate by quarter is at 27-28 percent.
- Quarterly agreements and dismissals (these are cases not litigated and are either dismissed or settled) — dismissals outnumbered the agreements for the first time in a long time.
- Affirmance rate (PD&Os and D&Os – litigated cases) remained fairly typical: for July 2003, Self-insured was 55 percent; State Fund 60 percent.
- Average PD&O lag-time by quarter for hearing judges was 27 days in June 2003, which is good considering the judges' workloads.
- D&O time lag by quarter (this is related to the orders issued by the three Board members) is doing fairly well – for the quarter ending June 2003 it was a total of 57 days.
- Quarterly average weeks to completion for all cases was 33.8 weeks for June 2003; 34 weeks for the quarter, which is a little below the Governor's Scorecard measure of 35 weeks.
- Caseload at end of the month is remaining about 5700.
- Final orders appealed to Superior Court quarterly remains approximately 3 to 4 percent.

#### **Financial Update – Mark Mercier**

Mark began his presentation with a bit of insurance definition to try to defuse some of the misunderstandings about the department's assets and liabilities and how they are calculated. A copy of Mark's presentation materials is attached.

#### Financial Update

Annualized Medical Growth Rates: The annualized increase in both medical growth rates moved up one percent this quarter. L&I had a medical growth rate of 6.8 percent and the Seattle-Tacoma-Bremerton index was 5.3 percent. L&I's three-year average is 7.7 percent.

Average Time-loss Duration: The average time-loss duration in days was 229.7 this past quarter, and 226.9 the prior quarter.

Expected Result: Equities outperformed expectations by \$174 million, ending the year about where they began. Accident quarter benefits incurred were near expected. Senate Bill 5271 regarding permanent partial disability (PPD) eligibility changes reduced hearing-loss reserves by \$200 million. It also had an effect on reducing associated claim adjustment liabilities.

*Dan Fazio asked for a previous report provided by the department with regard to the historical documentation of expected versus actual over a five to seven year period. Dan agreed to provide the department with a copy of the document he was referencing.*

Contingency Reserve: The 10 percent target Contingency Reserve was \$791 million at June 30, 2003, dropping with the PPD liability reduction. L&I ended at \$444 million, \$347 million short of desired. Barring the equity results and law change, the department may have ended the year at \$10 million.

*Business raised concern over Contingency Reserve dollars being used for other programs than workers' compensation related.*

Expenses and Revenues: A reversal of fortune in that expenses are down two quarters in a row while revenues increase two quarters in a row. The revenue increases are due to the effect of the premium rate increase effective December 31, 2002.

Benefits and Administrative Expenses Incurred: Benefits incurred were \$247 million. Without the PPD hearing-loss law change, it would have been \$447 million. Claim adjustment expense was only \$7 million this quarter, largely a result of the PPD reserve reduction.

Annual Incurred Administrative Expenses by Category: A graph depicting six years worth of expenses incurred by category was provided. Claims administration expenses are the largest, with non-insurance expenses the second largest.

*Business requested more specific information on the distribution of expenses by classification within category.*

Mark spoke at length about the process of allocation, and indicated he would provide the additional detail when it could be made more understandable.

Asset Development: It was noted that the assets are worth watching since investment income that comes from bonds routinely provides a major offset to premiums.

Is it Still There? In the quarter, the Wilshire was up 16 percent and the EAFE index was up 18 percent. Both indices ended the year about where they began. (100 points on the Wilshire increases equities and also the Contingency Reserve by \$14.8 million.)

### **Occupational Health Services Pilot Project Update – Diana Drylie**

Diana reported there was not a lot of new information since the last quarterly report. The number of doctors participating in the Renton pilot has grown from the initial 22 to 121; in the Spokane pilot that began in April, the number has grown from 30 to 91 doctors participating. Participation by the doctors in the pilots is strictly voluntary.

The process evaluation of the Renton pilot has demonstrated improvements in provider behavior – results are as follows:

	ROA within 2 business days	Activity Prescriptions	Employer Phone Calls
High Volume Providers	8% - 79%	54%	66%
Low volume Providers (< 30 claims)	27% - 46%	28%	13%
Emergency Departments	6% - 42%	49%	--
Overall	7% - 57%	--	--

The Renton pilot has processed 7,200 claims over 14 months; Spokane pilot 260 claims over two months. Five employers have enrolled in the Spokane pilot.

*A contact number was requested for employers to enroll in the Spokane pilot.*

The employer recruitment numbers for the Spokane pilot are as follows:

(509) 473-6784

(866) 247-2643

#### **Director's Update – Paul Trause**

Paul provided an update on the proposed rates indicating at the August 12 meeting discussions had been around a 20+ percent increase; currently the department is looking at 19-20 percent increase. Paul indicated the department is working to finalize their proposal for a Wednesday press release. Paul asked for the committee's feedback on the policy issues presented at the August 12 special meeting.

Discussion followed with the same issues identified at the August 12 meeting being raised again. Paul reminded the committee they needed to focus on the policy level issues. Paul stressed the need for reserves to be above the level to take care of predicted liability for several reasons:

- Rates stability.
- Rates inequity.
- Contrary to accepted practice.
- Additional reserve necessary to be in accordance with industry standard.

Data/information requests made at the August 12 special meeting were reiterated – they are listed at end of the meeting minutes.

#### **Preferred Worker Program Update -- Kathy Kimbel**

Kathy provided copies of the law and policies pertaining to the Preferred Worker Program, along with a document describing what Oregon is doing in the way of a Preferred Worker Program. Kathy indicated the department is looking to enhance the program and has established a "Think Tank" group made up of Labor and Business representatives to gather ideas and suggestions to improve the program.

One meeting of the "Think Tank" group has been held, however, only business representatives were in attendance. Kathy stressed the importance of having Labor involved in the discussions/process.

*Labor indicated that a lot of good employers are now returning injured workers to work and they don't want to do anything to cause the employers to second think the programs they currently have in place.*

Kathy indicated the purpose of reviewing the Preferred Worker Program was to ensure it would be equitable to everyone, a benefit to both employers and workers.

*Mike Sotelo asked how many preferred worker certificates had been issued since the review of the program began. Kathy to provide the information.*

Kathy indicated she would share all information as it becomes available to both Business and Labor. Kathy asked Business and Labor to provide her their feedback for recommended changes to the Preferred Worker Program by the end of September.

Kathy announced the Preferred Worker Program has been moved from Employer Services to the Claims Administration Program in the Vocational Rehabilitation section and the contact is Donna Spencer (360-902-6576).

### **IME Improvement Project – Dave Overby**

Dave reported the IME Improvement Project would not be moving forward with the following recommendations:

- Paying all examiners directly, then allowing examiners to pay panel companies as desired.
- Randomized selection of examiners for referrals (logistics not workable).
- Interactive Voice Response (IVR) survey of injured workers – looking for another alternative.

The project is moving forward on, or continuing to study, the following recommendations:

- A centralized unit of L&I field schedulers in Seattle by February 2004.
- Upgrade the approved examiner database – current database not user friendly.
- More Health Services Analysis/Office of the Medical Director support to resolve provider-scheduler issues.
- Developing a more efficient method for delivering medical records to IME examiners (other than fiche).
- Pilot a peer-review IME quality assurance program (the department received an appropriation for this pilot) and provide aggregate feedback and examiner-specific feedback.
- Clarify requirements in WAC, including appropriateness of exam site.
- Survey participants, stakeholders and providers after March 2004.
- Upgrade complaint database for better reporting – to identify themes easier.
- Examiner selection guidelines implemented March 2003 – multi-examiner exams reduced from 65 percent to 29 percent.
- Referral questions guidelines – draft work product to be shared this fall and staff to be trained through Claims Training.
- Collecting and analyzing reasons for ordering IMEs.
- Use “reason” data to coach claim managers.
- Abbreviated IME for ratings only – still exploring this idea. (*Owen questioned how many appeals deal with ratings only. How do abbreviated ratings stand up during appeal?*)
- Toll-free numbers for workers to call regarding IMEs – questions answered and logistics handled more quickly.
- Enhanced IME appointment letters copied to attending physicians.
- Comprehensive program measures shared with stakeholders, management and providers. Will be developing a “Book of Business” for this program to focus on areas of improvement.
- Assign IME-specific provider numbers to all IME examiners – to provide for greater accountability and monitor utilization.
- New (simpler) fee structure. Draft fee structure to be shared in September for feedback.

- Tie reimbursement to performance – have just begun brainstorming ideas around fees, referrals, quality and timeliness.
- If anyone has any suggestions/recommendations send Dave Overby an e-mail at [over235@lni.wa.gov](mailto:over235@lni.wa.gov).

Next Steps include:

September: Share stakeholder (Labor, Business, providers and L&I staff) feedback with the director and IME Steering Committee September 12; solicit feedback on draft IME feed structure.

October: Begin “reason for IME” data collection; and will be soliciting feedback on referral questions guidelines.

November: Implement referral questions guidelines.

December: WAC hearings (tentative).

January/February 2004: Final stages of implementation.

**2004 Meeting Dates were presented** – dates had been shared and approved by members previously. All meetings are scheduled 9:00 a.m. to noon, at L&I’s Tumwater Headquarters building in the Auditorium. Meeting dates for 2004 are: April 5, June 23, September 13 and December 6.

Request for data/information:

- History/policy on Contingency Reserve level at 10 percent of liabilities.
- Analysis of rate increase with zero Contingency Reserve.
- Projected savings from the passage of the interagency prescription drug bill SB 6088 from the 2003 session.
- What are the administrative costs as a percentage of premiums?
- Comparison of the last seven to 10 years of estimated premiums to actual premiums.
- Amount of interest paid on Retro refunds.
- What conversion factor does the department use to convert payroll wages to hours worked?
- Updated exhibit “Change in Contingency Reserve, Historical Explanation.”
- Address the WCAC’s concern regarding accident and medical aid funds being used for programs other than workers’ compensation programs.

**Meeting Adjourned.**